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6 Attorneys for Defendant
CBS STUDIOS INC.

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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

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11 DELRAY RICHARDSON p/k/a DELRAY
d/b/a DEL FUNK BOY MUSIC, an
12 individual, and STERLING A.
SYNDER d/b/a/ ZION RECORDS,
13 an individual,

Case No. CV12-7925 ABC (SHx)
Honorable Audrey B. Collins

14

Plaintiffs,

DECLARATION OF ROBERT S.
BESSER IN REPLY TO OPPOSITION
TO MOTION FOR SUMMARY
JUDGMENT

15

vs.

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17 CBS STUDIOS INC., d/b/a CBS
TELEVISION DISTRIBUTION, a division
of CBS CORPORATION, a Delaware
corporation,

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Defendants.

Date: September 30, 2013
Time: 10:00 a.m.
Ctvm: 680
Roybal Building

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I, Robert S. Besser, hereby declare:

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1. I am the lead attorney representing Defendant CBS

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STUDIOS INC. ("CBS") in this case. I make this declaration from
24 personal knowledge and if called as a witness I could and would
25 competently testify to the facts stated herein.

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DECLARATION OF ROBERT S. BESSER IN REPLY
TO OPPOSITION MOTION FOR SUMMARY JUDGMENT

1 2. Plaintiffs submit no evidence that Defendant "failed to
2 meet and confer." Their only mention of the subject appears as
3 an argument in their memorandum. Plaintiffs allege that "no
4 conference took place at all." (Plaintiffs' Memo., p. 9, l. 10.).

5 3. Plaintiffs' unsworn statements are not true.

6 4. I did not falsify any part of the "FRCP 26(f) Report"
7 filed on January 25, 2013. In fact, included in the Report is a
8 section titled "Issues which may be resolved by Summary
9 Judgment." In that section, Plaintiffs asserted that the
10 copyright infringement issues in this action could not be
11 determined on a motion for summary judgment and Defendant took
12 the contrary position. This section was jointly drafted by me
13 and Plaintiffs after an extensive discussion about the fact that
14 Defendant would file a motion for summary judgment directed to
15 the copyright issues.

16 5. Since the filing of the FRCP 26(f) statement I have had
17 at least five in person conferences (the Plaintiffs would stop by
18 my office) with both Plaintiffs during which the motion for
19 summary judgment was extensively discussed. On such occasions,
20 Richardson, with no dissent from Snyder, stated to me that
21 Plaintiffs had gathered the evidence that they would use in
22 opposition to Defendant's motion for summary judgment and were
23 convinced that they would prevail.

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1 6. I tried, but was unable, to convince Plaintiffs that
2 they should withdraw their claims for copyright infringement so
3 that a motion for summary judgment would be unnecessary.

4 7. I also discussed the filing of a motion for summary
5 judgment on numerous occasions with Plaintiff Richardson over the
6 telephone. On each such occasion, Plaintiff Richardson told me
7 that he was ready to oppose the motion for summary judgment and
8 was confident that Plaintiffs would prevail.

9 8. In good faith, I considered these exchanges to
10 constitute a sufficient "meet and confer" process under these
11 circumstances. After all our various communications, I knew not
12 only that Plaintiffs would never, for example, dismiss the case -
13 which would negate the necessity for a motion for summary
14 judgment, but also that Plaintiffs had a "bring it on" attitude
15 toward the motion. There was no potential resolution. Any
16 further or formal meeting and conferring would have been futile.

17 9. What Plaintiffs refer to as "Exhibit 16" is only a few
18 pages from the document which was produced to Plaintiffs.
19 Similarly, the Exhibit Plaintiffs refer to as "Exhibit 5"
20 consists of only three pages of a document that is many more
21 pages. As is the same with all episodes, the cue sheet for
22 Episode 105 actually consists of four pages.

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CERTIFICATE OF SERVICE

STATE OF CALIFORNIA:

COUNTY OF LOS ANGELES:

I am a member of the Bar of the State of California. I am over the age of 18 and not a party to the within action. My business address is 1221 Second Street, Suite 300, Santa Monica, California 90401.

On this date, I served the foregoing document described as DECLARATION OF ROBERT S. BESSER IN REPLY TO OPPOSITION TO MOTION FOR SUMMARY JUDGMENT all interested parties in this action by:

[XX] BY MAIL: placing a true and correct copy thereof enclosed in a sealed envelope with postage fully pre-paid and addressed as follows:

Delray Richardson, In Pro Per
Sterling A. Snyder, In Pro Per
2191 East 21st Street Box K
Signal Hill, CA 90755

I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit stated in this affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on September 16, 2013, at San Rafael, California.

/s/ Christopher Chapin
CHRISTOPHER CHAPIN